

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 1635/2007

(Angrej Singh Vs. State of Rajasthan)

Date of Order : 05/12/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Hemant Dutt for the petitioner.

Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

Issue notice for final disposal. Learned public prosecutor accepts the notice for the State. With the consent of learned counsel for the parties, the criminal misc. petition itself is finally heard and decided at this stage.

By the instant petition under section 482 Cr.P.C. the petitioner has challenged order dated 12.06.2007 passed by Chief Judicial Magistrate, Hanumangarh, district Hanumangarh (for short 'the trial court' hereinafter) whereby the trial court dismissed the application filed by the petitioner under Section 451 Cr.P.C. seeking release of the tractor bearing No. PBI-4256

with trolley on Supardginama. Aggrieved by the impugned order, the petitioner has filed the instant petition.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that the petitioner is the registered owner of the tractor in question which alleged to have been found carrying Kikar wood "babul" in contravention of the provisions of the Forest Act and the petitioner is not an accused in the case. It is also contended that as per the Notification dated 19.1.1991 issued by the State Government, "babul" has been exempted from the forest produce under the Rajasthan Forest (Produce Transit) Rules, 1957 (for short 'the Rules, 1957 hereinafter). It is further contended that if the vehicle is allowed to remain lying at the Police Station for indefinite period, it would expose to the heat, air and rain, resultantly diminishing its value; and the petitioner is prepared to furnish the solvent security. The petitioner is a poor agriculturist and the vehicle in question is part and parcel of his livelihood, therefore, the vehicle in question may be released in favour of the petitioner on Supurdginama.

Rule 3 of the Rules, 1957 pertains to exemption from forest produce and provides that in exercise of the powers conferred under the proviso to rule 2 of the Rules, 1957, the State Government exempts transportation of forest produce of

the following species for destination within the State of Rajasthan; namely Eucalyptus, Su-Babul, Ardu, Vilaiti Babul, Israeli Babul, Deshi Babul and Shisham.

This Court in Jeet Singh Vs. State of Rajasthan 2006 (2) R.Cr.D. 274 (Raj.) without going into the question as to whether the goods being transported in the vehicle, in fact, is a forest produce or not as defined in the Rajasthan Forest Act, held that the condition of furnishing bank guarantee is onerous and accordingly the condition of bank guarantee has been set aside and vehicle has been ordered to be released on Supardginama.

Having regard to the facts and circumstances of the case, it is yet to be established in the trial as to whether the wood carried in the vehicle or transported, are forest produce or not, more particularly keeping in view the Notification dated 19.1.1991 as also Rules 3 of the Rules, 1957 by which the babul is exempted from the category of forest produce, in my view, no useful purpose would be served in allowing the vehicle to remain at the Police Station for unlimited period exposing to heat and open sky as there is every possibility of diminishing its value and the ends of justice would be met if the vehicle in question is released in favour of petitioner on supurdginama.

In the result, the order impugned dated 12.06.2007 passed by the trial court is set aside and the trial Court is directed to release the Tractor No. PBI-4256 with trolley in

favour of the petitioner, who is the registered owner of the said tractor trolley, on his furnishing the personal bond of Rs.2,00,000/- with a surety of the like amount with the condition that the petitioner will not transfer or alienate the same and shall produce when ordered by the trial Court.

With the above modification, the petition is disposed of.

(H.R.PANWAR),J.

Rp